

E-FILED - 7/3/08

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ELIAS HERNANDEZ-MORALES,)	No. C 08-2385 RMW (PR)
)	
Petitioner,)	ORDER OF DISMISSAL
)	
vs.)	
)	
MARTY ANDESON,)	(Docket No. 2)
)	
Respondents.)	

Petitioner, a federal prisoner proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner is currently incarcerated at a medical center for federal prisoners in Springfield, Mississippi. In the petition, he states that he is challenging a federal conviction and sentence obtained in Del Rio, Texas, for illegal re-entry after deportation. The instant petition is a copy of a petition filed by petitioner in a previous habeas action, Hernandez-Morales v. Andeson, No. C 08-2238 RMW (PR), which action has been dismissed for failure to state cognizable claim for relief. A complaint that merely repeats pending or previously litigated claims is frivolous and may be dismissed sua sponte. See Cato v. United States, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995); Bailey v. Johnson, 846 F.2d 1019, 1021 (5th Cir. 1988); see also 28 U.S.C. §

1 2244(b)(3)(A) (providing that second or successive petition may not be filed in district
2 court unless petitioner first obtains from United States Court of Appeals order authorizing
3 such petition). As the instant petition is identical to petitioner's earlier-filed petition, the
4 instant action is hereby DISMISSED as duplicative.

5 The application to proceed in forma pauperis is GRANTED.

6 The clerk shall terminate docket number 2 and close the file.

7 IT IS SO ORDERED.

8 Dated: 7/1/08



RONALD M. WHYTE
United States District Judge